IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4565 OF 1996

Nilesh Vasant Ratnakar .. Petitioner.
Vs.
The District and Sessions Judge, Thane .. Respondent.

Mr.V.N.Bolinjkar h/f Mr.K.K.Malpathak for the petitioner.

CORAM : B.H.MARLAPALLE & D.B.BHOSALE, JJ.
DATED : APRIL 20, 2006.

P.C:

. In this petition filed under Article 226 of the Constitution, the petitioner has prayed for writ of mandamus or the directions in the nature of mandamus for his absorption on the permanent basis in the post of the bailiff in the District Court, Thane on the ground that he was a waiting list candidate in the selection process held in 1985 and he claims that he was continued in the said waiting list till January, 1995.

2. As per the petitioner, he has studied upto ninth standard and he claims to be duly qualified for the post of bailiff. He was included for the said post on 3.5.1985 and was on wait list at serial No.31. On 30.1.1991, office order no.36 was issued by the learned District Judge at Thane and by the said order the petitioner came to be

appointed as the bailiff on purely temporary basis in the vacancy caused due to promotion of his superior Mr.D.N.Bhoir. He was again appointed by the another order dated 6.1.1992 on temporary basis on account of promotion of Mr.D.G.Sarnobat and for the fixed period. At the end of tenure he was again discontinued. He was appointed again on 11.6.1992 in the place of Mr.D.P.Ugare, who had proceeded on long leave for a specific period. The petitioner was further appointed on 29.8.1994 on leave vacancy for a specific period as soon as the incumbent reported after the leave had expired. Yet another order of appointment was given to the petitioner on temporary basis on leave vacancy on 11.11.1994 and the tenure came to an end when the incumbent reported to duty. A fresh appointment order was issued on 13.12.1994 in the leave vacancy and by the order dated 19.1.1995 his tenure was brought to an end. He relied upon the decision in the case of **State of Haryana Vs. Piara Singh AIR 1992 S.C. 2315** and claims that he was entitled to be appointed on permanent basis as he has completed the services of more than three years from 30.1.1991 to 13.12.1994. It is well established that a temporary appointee cannot claim as a matter of right for absorption on permanent basis and this view has been recently confirmed by the

Constitutional Bench of the Apex Court. The appointments under the State are required to be done on the permanent basis strictly as per the rules applicable and the temporary appointees do not have the right for such permanent appointment only because they were on wait list or worked on leave vacancy. Even otherwise under Article 229 of the Constitution the Hon'ble the Chief Justice has framed the service rules for the subordinate staff appointments in the year 2000 and they have been brought into force from 1st January, 2001. The petitioner was on the wait list of selection undertaken in 1985 and he cannot have legal claim for absorption in the permanent employment in the District Court at Thane, now.

3. The petition is dismissed. Rule discharged.

4. The amount of cost quantified at Rs.500/- as per the order dated 23.11.2005 passed in Civil Application No.435 of 2005 shall be remitted by the learned counsel for the petitioner within a period of two weeks from today.

(D.B.BHOSALE, J.) (B.H.MARLAPALLE, J.)